

**DEPARTMENT OF HEALTH AND FAMILY SERVICES
DIVISION OF HEALTH CARE FINANCING
ADMINISTRATOR'S MEMO SERIES**

NOTICE: 04-01

DATE: June 14, 2004

DISPOSAL DATE: Ongoing

RE: Tax Intercept for Medicaid
Benefit Recoveries

To: County Departments of Human Services Directors
County Departments of Social Services Directors
Tribal Chairpersons/Human Services Facilitators
Tribal Economic Support Directors

From: Mark B. Moody
Administrator
Division of Health Care Financing

PURPOSE

The purpose of this memorandum is to notify you that the Department of Health and Family Services (DHFS) has taken action to temporarily suspend the certification of Medicaid overpayments to the Department of Revenue (DOR) for tax intercept. DHFS has recently determined that the Wisconsin Medicaid tax intercept process is not consistent with federal law. Specifically, federal law provides that incorrect Medicaid payments may be recovered through a lien on personal or real property only if there is a court judgement establishing liability. Medicaid overpayments that have not been reduced to a judgement may not be certified to the Department of Revenue (DOR) under § 49.85 Wis. Stats. for tax intercept.

DHFS considers this a temporary suspension of the tax intercept process, pending the development and implementation of new procedures relative to securing court judgements in such cases.

IMPACT ON LOCAL ECONOMIC SUPPORT STAFF

Local Economic Support (ES) staff involved in Medicaid benefit recovery-related activities should continue to follow the instructions in Chapter VIII of the CARES Guide to enter overpayment claims, send notice to the recipient, and so forth. The Department is in the process of revising the notice to recipients to accurately reflect federal law.

As has occurred prior to the suspension, CARES will issue the repayment agreement, track the issuance of notices of non-payment and send past-due notices. CARES will also continue to refer past-due claims to the Central Recoveries Enhanced System (CRES). However, CRES has been modified to temporarily prevent these claims from automatically being referred to DOR.

In explaining the Medicaid benefit recovery process to Medicaid applicants or recipients, ES workers should be clear that tax intercept becomes a recovery alternative only after a court judgement has been obtained.

DHFS will also make changes to Appendix 34 (Corrective Action) of the Medicaid Handbook as necessary.

POTENTIAL IMPACT ON LOCAL AGENCY REVENUES

Currently, local agencies retain 15% of any amount recovered from Medicaid overpayments. In state fiscal year (SFY) 2002, the most recent year for which complete data are available, approximately \$511,000 in overpayments were recovered. The county share of this amount was about \$77,000. Generally, about 75% of all recovered Medicaid funds are from the state's tax intercept program. Therefore, it is possible that some counties will experience a small reduction in revenue during the suspension period.

The Department will continue to work on developing revised procedures that are consistent with federal law. The Department will provide updates on this issue at future Income Maintenance Advisory Committee meetings and notify local agencies of any related policy/procedural changes through future Administrator and/or Operations memoranda.

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